

OCT 2 1 2005

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FCC - MAILROOM

Bill Scoggan Superintendent

SCHOOLS

7217 S. E. 15th Midwest City, OK 73110 (405) 737-4461 Mailing Address: P.O. Box 10630 Midwest City, OK 73140 Fax # (405) 739-1615

Pam Deering, Ph.D.
Assistant Superintendent
Fiscal Services

October 13, 2005

DOCKET FILE COPY ORIGINAL

Federal Communications Commission Office of the Secretary 445 – 12th Street, SW Washington, DC 20554

Re:

Request for Waiver CC Docket No. 02-6

Applicant Name:

Midwest City-Del City Sch Dist

Billed Entity Number:

139839 461618

Form 471 Application Number: Funding Request Number(s):

1268411

This letter is a Request for Waiver to the FCC.

Request for Waiver:

We are requesting a waiver of the 60 day window, after receipt of a Funding Commitment Decision Letter (FCDL), for appeal as defined in FCC rules. In a response from the SLD dated October 6, 2005 regarding the Administrator's Decision on Appeal-Funding Year 2005-06, the SLD stated that the appeal was postmarked more than 60 days after the date the FCDL was issued. The FCDL was dated July 7, 2005 and our appeal was dated September 7, 2005.

As a result, the SLD did not consider our request for appeal due to the FCC rules regarding the 60 day window. The Request for Appeal to the SLD was in regard to a clerical error on the Form 471 that listed a monthly amount for a single site rather than a monthly amount for the entire district. The attachments submitted with the Form 471 clearly identified the monthly amount for the entire district to support the Priority One Internet Access Service. I am attaching the documentation of the information submitted to the SLD in our original appeal.

We anticipate a positive decision to waive the 60 day window rule. Thank you on behalf of the staff and students of Mid-Del schools.

Contact Information:

Pam Deering Midwest City-Del City School District P.O. Box 10630

Midwest City, OK 73140 Phone: (405) 737-4461 ext. 236

Fax: (405) 739-1615

E-mail: pdeering@mid-del.k12.ok.us

Respectfully,

Pam Deering, Ph.D.

Assistant Superintendent of Fiscal Services

Attachments

No. of Copies rec'd_ List A B C D E

"Where Children Come First"

Serving the students of Del City, Forest Park, Midwest City, part of OKC, and Tinker Air Force Base



Bill Scoggan Superintendent

Pam Deering, Ph.D.

7217 S. E. 15th Midwest City, OK 73110 (405) 737-4461 Mailing Address: P.O. Box 10630 Midwest City, OK 73140 Fax # (405) 739-1615

Fiscal Services
September 7, 2005

Assistant Superintendent

Letter of Appeal Schools and Libraries Division Box 125 – Correspondence Unit 80 South Jefferson Road Whippany, NJ 07981

Submitted Electronically, Referenced by Case # 21-301469 RE: Incorrect Amount on FRN 1268411 Applicant: Midwest City – Del City School District Billed Entity #: 139839 Form 471 Application #: 461618 Funding Request #: 1268411

Dear Sir or Madam:

The purpose of this letter is to appeal a clerical error made during the filing of the above referenced Form 471 application. This Funding Request pertains to Priority 1 Internet Access Service from Cox Communications, SPIN# 143005575. As noted, this appeal has already been filed electronically and can be referenced by Case # 21 301469.

The amount requested for this service was inadvertently input as the monthly amount for a single site, \$3,750.00, versus the monthly amount for our entire District, \$34,750.00. The attachment submitted with the 471 clearly identifies the amount required to support this service on a monthly basis for the District as \$34,750.00. As this is an annual renewal of this service, prior year e-rate applications and funding amounts also support the \$34,750.00 as the monthly amount required.

As you can see, the amount submitted is only a little over one-tenth of our actual need. This reduced funding amount will place a large hardship on our School District which is in a high economically disadvantaged community. It will also put us at an economic disadvantage with other schools in our state.

We are requesting that the monthly recurring amount be adjusted for this service to the intended value of \$34,750.00, for a total annual cost of \$417,000.00. Your consideration of our request will be greatly appreciated. If you have additional questions, please contact me by phone at (405) 737-4461 x236 or by fax at (405) 739-1615.

Sincerely,

Pam Deering

Assistant Superintendent for Fiscal Services

Ham Deering

Continues of Control Number:		· · · · · · · · · · · · · · · · · · ·	System Address CBS - OK	c	
Customer Account Number: Federal Tax ID Number:			6301 Wa	6301 Waterford Boulevard, Suite 20	
			Oldahom	a City, OK 73118	
Contract Number: Contract D					
Sustamer Information	· 10-20	Author	ized Customer Representat	ye Information	
egal Company Name: Mig Del Public School District		Name:	Pam' Dearing		
Service Street Address: 7217 SE 15th			Business Phone Number:		
City/State/Zip: Midwest City, OK 73110		4441404	Business Fax Number; Additional Contact Number (optional);		
Requested Service Date: Renewal 7-2005 Billing Street Address (if different from service address	<u>(4)</u>		ddress (optional);		
treet Address:					
Ity/State/Zip:					
Cox shall provide the following Services and equipmen	nt and Custome	r agrees to pay t	he fees and charges set forth b	elow: (Customer Initials)	
Product Description	Quantity	Term	Monthly Charge per Unit	Total Monthly Charge	
LOO Mb leased data circuit for WAN	32	See below	\$1000	\$32,000	
00/100Mb Shared Internet	1	See below	\$2750	\$ 2,750	
OF ACOUSTIC COMMENTS STREET THE					
Equipment Description/Non Recurring/One- time Activation and Set-Up Fees	Quantity	Unit Price	Installation Fees	Total Initial Charges	
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edicated Services - Point to Point duress of Origination Point A		Addres	s of Termination Point B	1	
			Parameter Control of the Control of		
Internet Services				ustomer Initials)	
OP Mail Boxes			Name Registration	······································	
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Special Conditions				<u> </u>	
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naus) renowel terms each of which is of ach renewal torm. Customer agrees to us or the Sorvices under this Agreement. he undersigned represents that majors is the Customer or a	ubject to ca se good fait sthe Authorized (nceliation of board commer-	nly for nonreceipt of following reasonable effor Entity #:	unding by Contoner and	
indust rendwal terms each of which is suach rendwal torm. Customer agrees the us for the Societies under this Agreement. The undersigned represents that ne/shalls the Customer or a better for the services in this Agreement and that the customer for the services in this Agreement and that the customer for the services selected above. Cultich services are subject to mater, terms and conditions from mentations Geografisher, and that such requisitions are	s the Authorized (stoner information contained in Con- subject to change stoner understan contained in Con- subject to change	nceliation of hond commers Listor on it is do the configuration of the	nly for nonreceipt of f ultily reasonable effor	unding by Contoner and the to tened the funding	
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A. Terms and Conditions for Requisted Telephone Services.

- 2. Exists The terms and conditions of telephone service provided to Customer under this Agraement are contained in teriffs on file with state and/or (oderal regulatory authorities. These teriffs shall govern the provision of telephone service, and Cox may amend such teriffs and telephone service shall be subject to such teriffs, as amended. Customer must disclose to Cox if Customer intends to use the Services in connection with payphone service.
- 2. Telephone Numbers The Customer has no property right in the telephone number associated with the telephone service provided by Cox, provided, however, if Customer porce a telephone number from another certier to Cox, Cox will use such number with Customer's telephone Service. Any telephone number designated by Cox in advance of the activation of Cox telephone service is subject to change by Cox. Additional terms and conditions regarding telephone numbers are contained in Cox teriff(s) on file with regulatory authorities.
- 3. State-to-State and International Beindead If Gustomer subscribes to or uses state-to-state and/or International telecommunications Services from Cox, such Services shall be provided pursuant to the terms and conditions contained in Cox Customer Service Agreement which may be found at our web site: york.eas.pon/telephona/nusle/IACtemps@aarsemuni.eag.
- 4. PRX Usage. If Customer uses a Private Branch Exchange (PBX) in connection with the Services, Customer is responsible for programming the PBX to ensure that agencies receiving E911 emergency calls through the PBX will receive appropriate information about the location of the caller.
- 8. Terms and Conditions of Cata, Interpot. Web Hosting, Web Conferencing, Video and unrequiated Services.
- 1. Paymens Customer shall pay for all monthly service charges, plus one-time set-up, installation and/or construction charges. Unless stated otherwise herein, monthly charges for Services shall begin upon installation of Service, and installation charges, if any, shall be due upon completion of installation. Cox may change video and music service prices periodically during the Term of this Agreement. Any amount not received by the due date shown on the applicable bill will be subject to interest or a late charge at the maximum rate allowed by law. If applicable to the Service, Customer shall pay sales, use, grass receipts, exclad, access, universal garvice fund assessments, 9.1.1 fees, franchise fees, bypass or other local, state and federal taxes or charges imposed on the use of the Services. Taxes will be separately stated on the Customer's invoice. No interest, whell be paid on deposits.
- 2. Service and Installation Cox shall provide Customer with the Services and Equipment Identified on the first page of this Agreement. Customer is responsible for damage to any Cox equipment. Customer may use the Services for any lawful purpose, provided that such purpose (a) does not interfere or impair the Cox network, equipment or facilities and/or (b) compiles with the applicable Acceptable Use Policies ("AUP") which are incorporated herein by reference. Customer shall use the equipment only for the purpose of receiving the Services. Customer shall not expressly authorized in writing by Cox. Customer shall not permit temporting, attenting or repair of the equipment by any parson other than Cox's authorized personnel. Unless provided otherwise herein, Gox shall use reasonable efforts to inental the Services in accordance with applicable berformance standards, however, Cox shall have no responsibility for the maintenance or repair of facilities and equipment it does not furnish. For Cox Internet Services, harvow.don appeal options may vary. Customer may not always receive or abbility aptimal bandwidth speeds and Cox natwork management needs may require Cox to modify upstream and downstream appeals. Use of the data, Internet, web conferencing/with hosting Services shall be subject to the Cox AUP and the AUP is available online at https://www.cox.buginess.com/AcceptableUsePolicy.ndf. The AUPs may be amended from time to time during the Term of this Agreement, Customer's continued use of the Services following an amendment shall constitute acceptance. Cox is not responsible for the networks or facilities of third parties which may be necessary to provide Service. For video and music Services, Cox reserves the right to change channel line-up at any time.
- 3. Service Date and Term. This Agreement shall be effective upon execution by the parties. Services shall be provided for the applicable term set forth on the first page of this Agreement. Cox shall use reasonable diffects to make the Services available by this Agreement of service date. Cox shall not be liable for an examples whatspeed requirented service date. Cox shall not be liable for an examples whatspeed regulating from deleys to meeting any service dates due to serve result in from construction or for reasons beyond its depictor.
- 1 <u>Customor Respensibilities</u> Customor is responsible for arranging a necessary right of access for Cok within the Customer's prepases, including access for coking the customer's propases, including an excession customer's consonal to install, repair, lespect, maintain, replace or remove any and a frontier and adjunction provided a secure.

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space with electrical power, climate control and protection against fire, vandalism, and other casualty for Cox's equipment. Customer shall use the services in compliance with all applicable laws and ordinances, as well as applicable leases and other contractual agreements between Customer and third parties. If Customer engages in a public performance of any copyrighted material contained in any of the Services provided under this Agreement, the Customer, and not Cox, shall be responsible for obtaining any public performing licenses. Customer is responsible for ensuring that Customer's equipment is compatible for the Services selected and with the Cox networks.

- 5. Editioment Unless otherwise provided herein, Customer agrate that Cox shell retain all rights, title and interest to feditites and equipment installed by Cox thereunder and that Customer shall not create or permit to be created any liens or encumbrances on such equipment. Internal Wiring shall not be considered equipment and shall become the property of Customer upon Initiation of Service. Cox shall install equipment necessary to furnish the video Services to Customer. Customer shall not modify or relocate agulpment installed by Cox or install any other equipment, including sources in connection with date/internet without the prior written consent of Cox. For Cox-dwned agulpment, Customer shall, at the explication or termination of this Agreement, return the equipment in good condition, ordinary wear and top resulting from proper use excepted. In the event the equipment is not returned to Cox in good condition, Customer shall be created by Cox at no charge to Customer provided that damage is not due to missen, abuse or other disaster including acts of God. If additional equipment, including but not limited by, monitors, computers, tincuits, software or other responsible for such equipment to use the Services, Customer shall be responsible for such equipment.
- 6. Here to at Service Unless sutherized in writing by Cox, Customer may not result any portion of the Service to any other party; provided, however, Customer may, with Cox's prior written consent, resell web hosting for third parties through the Services. Customer shall be responsible for any software and content displayed and distributed by Customer or Customer's web hosting customers, if any.
- 7. <u>Default</u> If Customer fails to comply with any material provision of this agreement, including, but not limited to failure to make payment as specified, then Cox, at its sole option, may elect to pursue one or more of the following courses of action upon proper notice to Customer as required by tariff or applicable law: (i) terminate service whereupon all sums then due and payable shall become immediately due and payable, (ii) suspend all or any part of Serves, and/or (iii) pursue any other remedies, including reasonable attorneys' feet, as may be provided at law or in equity, including the applicable termination liabilities.
- 9. IP Address and Domain Name Registration Cox will allocate IP addresses to Customer according to InterNIC guidelines. All IP addresses assigned by Cox must be relinquished by Customer upon the expiration, termination or cancellation of this Agreement. IP address shall be subject to the IP policy in the AUP. If Customer requests, Cox will register an available domain name on behalf of Customer, and such registration shall be subject to rules promulgated by the domain name registrar, which may be amended from time to time and are presently posted at Register.com http://diobalgartocrnetwork.websitegalaxy.com/Renylsesagreement.html or Versign at htm://www.netsol.com/en_us/legal/static-service-agreement.html, Customer is responsible for payment and maintenance of domain name registration.
- 9. <u>Termination</u> Custome: may terminate video Service for any reason, upon payment for all sums for video Services rendered. Customer may terminate data, Internet, web hording and/or web conferencing Services before the end of the term splected by Customer on the first page of this agreement; provided, however, if Customer terminates Service before the term selected by Customer (except for breach by Cox), or Cox terminates Services for Customer's broach of this Agreement or the AUPs, Customer may be subject to a termination liability. The termination liability shall equal Judge of the monthly recurring charges for the terminated Services multiplied by the number of full months remaining in the laidal term commitment. After the Initial term, this Agreement shall automatically report on a month-to-month basis and shall be subject to terms of this Agreement. Any termination by Customer must be latigitized.

Entity #: 139839
471 App #: 461618
Attachment #;
Page _2_ of _3

REGARDLESS OF, THE CAUSE. COX SHALL NOT BE LIABLE FOR DAMAGE TO PROPERTY OR FOR INJURY TO ANY PERSON ARISING FROM THE INSTALLATION OR REMOVAL OF EQUIPMENT UNLESS CAUSED BY THE NEGLIGENCE OF COX. UNDER NO CIRCUMSTANCES WILL COX BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS ARISING FROM THIS AGREEMENT. COX'S MAXIMUM LIABILITY TO CUSTOMER ARISING UNDER THIS AGREEMENT SHALL BE THE LESSER OF \$5,000.00 OR THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR SERVICES HEREUNDER.

- 11. <u>Assignment Customer</u> may not assign, in whole or in part, this Agreement without the prior written consent of Cox, which consent may be withheld in Cox's discretion. Cox may assign this Agreement and Sorvice may be provided by one or more legally authorized Cox affiliates.
- 12. WARRANTIES EXCEPT AS PROVIDED HEREIN, THERE ARE NO AGREEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR THE PURPOSE, RELATING TO PARTICULAR SERVICES PROVIDED ARE A BEST SERVICES. EFFORTS SERVICE AND COX DOES NOT WARRANT THAT THE SERVICES, EQUIPMENT OR SOFTWARE ERROR-FREE WITHOUT OR. SHALL INTERRUPTION. COX MAKES NO WARRANTY AS UPSTREAM TRANSMISSION OR. DOWNSTREAM SPEEDS OF THE NETWORK.
- 13. INDEMNITY Customer shall indemnify and hold Cox and its respective affiligres, subcontractors, employees or agents harmiess (including payment of reasonable attorneys fees) from and against any claim, actions or demands relating to or arising out of Customer's use of the Service including without illustration (i) any content or software displayed, distributed or otherwise diseasminated by the Customer's its employees, or users of the Service, (ii) any claim that Customer's use of the Service Including the registration and maintenance of Customer's solected domain name(s), infringes on the patent, copyright, trademark or other intellectual property right of any third party; (iii) on, maintenance of act in violation of any laws committed by Customer, its employees or users using the Services; and/or (iv) violation by Customer, its employees or subnorized users of the Cox AUPs.
- 14. <u>Viruses, Content, Customer Enformation</u>
 from the use of Service may contain viruses or other harmful features and
 Customer is solely responsible for protecting its aquiament and software from such
 matters. Through the use of the Service. Customer may obtain or discover
 content that is offensive or linguish and Customer assumes the risk and is solely
 responsible for its socces to such content. Cox may disclose Customer information
 to any enforcement or to any Cox affiliate.
- 15. Miscellappour This Agreement, the terffs, the occurrents referenced herein, and the ANPs constitute the entire byreement between Cox and constitute the entire byreement between Cox and consider provided herein. The invalidity or constitute this Agreement shall not affect the validity, an enforcement of any term of condition of this Agreement shall not affect the mediately, as enforcement of any other provides. This Agreement may be mostlifted, waited in amended only by a written instrument signed by the particular may be considered. On this Agreement and the ANP and if Customer continues to use the Service.

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Customer shall be bound by such AUF as modified. The rights and obligations of the parties under this Agrogment shall be governed by the laws of the State fo Okiahoma. The failure by either party to exercise one or more rights provided in this Agreement shall not be deemed a waiver of the right to exercise such right in the future. Notices required by this Agreement shall be in writing and shall be delivered either by personal delivery or by mail. If delivered by mail, notices shall be sent by any express mall service; or by certified or registered mail, return receipt requester); with all postage and charges prepaid. All notices and other writing communications under this Agreement shall be addressed to the parties at the addresses on the first page of this Agreement, or as specified by subsequent written notice delivered by the party whose address has changed.

- 16. Requisitors Authority-Force Maleure This Agreement and the obligations of the parties shall be subject to modification to comply with all applicable laws, regulations, court milings, and administrative orders, as amended. In no event shall either party have any claim against the other for failure of performance if such failure is caused by acts of God, natural disasters including fire, flood, or winds, civil or military action, including riots, civil insurrections or acts of terrorists or the taking of property by candemnation.
- 17. Software License. Cox grants Customer a limited, nonexclusive, nontransferable and nonassignable license to install and use as provided herein (i) Cox access software, do well as software from our licensors that Cox incorporates into its access software), (ii) all associated user decumentation and (iii) any updates increto (the "Software"). Customer's use of the Software is governed by those terms and conditions. All rights title and interest to the Licensed Software, including associated intellectual property rights, are and will remain with Cox and Cox's licensors. Customer may not decomple, reverse engineer, distribute, translate any part of Software. Customer acknowledges that the Software, and any accompanying documentation end/or technical information, is subject to applicable export control laws and regulations of the USA. Customer agrees not to export or re-coport the Software, directly or indirectly, to any countries that are subject to USA export restrictions.
- 13. Web Hosting Servers. Cox reserves the right to select the server for Customer's web site for best performance. The Customer understands that the Services provided by Cox may be drovided on a shared server. This means that one web site cannot be cormitted to overwhelm the server with heavy CPU usage, for example from the use of highly active CGI scripts or that scripts. If the Customer's web site overwhelms the server and Causes complaints from other users, the Customer has outgrown the realm of shared services and will be required by Cox to relocate its web site. If the Customer refuses to comply with this Section, then Cox has the right to terminate the Services. Cox will use reasonable efforts to maintain a full time Internet presence for the Customer. The Customer hereby acknowledges that the network may, at various time intervals, be down due, but not restricted to, unlity interruption, maintenance equipment failure, natural disaster, acts of Goo, or inuman error and Cox shall not be liable to customer for such outages or server downtime.
- 19. <u>Digital Millennium Copyright Act</u> Cox is registered under the Digital Millennium Copyright Act of 1998. Pursuant to 17 U.S.C. Section 512(c)3, if you halleve that a Web page hosted by Cox is violating your rights under U.S. copyright law, you may file a complaint with Cox's designated agent. Please contact DMCA@Cox.com for information necessary to file your complaint with Cox.
- 20. E-Rate Customers. This peragraph applies only to educational institutions or libraries seeking raimbursement under the Federal Universal Service Fund. Customer shall apply annually to the Schools and Libraries Division, "SLO" for e-Rate funding and Customer shall designate Cox as its provider of Services. Customer shall also provide Cox with all documentation that is in response to all quaries, inquires and requests as part of the Program Integrity Assurance (PIA) process within three (3) business days of receipt and/or delivery thereof. Customer also acknowledges that increases and decreases in funding for any reason, Cox may their elect to decrease the level of Services provided to Customer. If full E-Rate funding is not received within 6 months of application date, or by the opening of the application window for the following funding year, then Cox thay terminate the Agreement without further liability to Cox or the Customer. Additionally, if full E-Rate funding is not received and Cox elects to termination habitines.

Entity#: 139839
471 App#: 46/6/8
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